

COMPLIANCE BOARD OPINION No. 96-8
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September 3, 1996

Mr. David Collins

The Open Meetings Compliance Board has considered your complaint dated June 24, 1996, in which you assert that camera crews from your television station were barred from a hearing on June 17 conducted by a Harford County Zoning Board hearing examiner and were temporarily blocked from a meeting of the Harford County Council on May 14. For the reasons set forth below, the Compliance Board finds no violation of the Act.

I

Complaint and Response

Both of the incidents about which you complain took place at the Harford County Courthouse. You state that on June 17, both courthouse security personnel and the hearing examiner himself refused to allow cameras into a hearing. The prior incident, on May 14, evidently involved a delay in admitting the camera crew, not an outright refusal: "Security guards kept our ... camera crew from covering a County Council [m]eeting. The guard said cameras aren't allowed in the courthouse.... One of the County Council Members finally told the guard that it was o.k. for the news media to video tape the meeting."

In a timely response on behalf of the hearing examiner and the Harford County Council, County Attorney Victor K. Butanis denied that the Open Meetings Act had been violated in either incident. Mr. Butanis indicated that, under procedures established by the County Administrative Judge, cameras are not permitted in the courthouse unless those in charge of a meeting or hearing approve the presence of cameras. In the case of the June 17 zoning hearing, the hearing examiner declined to allow cameras into the crowded hearing room, based on his opinion that "the cameras would have been disruptive and dangerous in light of the crowd in attendance that evening." With respect to the County Council meeting on May 14, Mr. Butanis stated that the delay in allowing the television station's camera crew into the hearing was merely an

application of the courthouse security procedures. Once security personnel were informed by the Council that cameras were to be permitted into the meeting, no further delay was imposed.

II

Analysis

A. The June 17 Hearing

The Open Meetings Act, including its provision on access by persons with cameras, applies only to a “public body.” The Harford County Zoning Board is a “public body,” for it is a multi-member entity created by State law. §10-502(h) of the State Government Article, Maryland Code. But those who conduct hearings on behalf of the Board are not themselves a separate “public body.” When a hearing examiner, as distinct from the Board itself, conducts a hearing, no “public body” holds a meeting. Moreover, a single individual, like the hearing examiner who conducted the June 17 hearing, is not a “public body.” §10-502(h)(3)(i). Hence, whatever may have been the basis for the exclusion of cameras from that hearing, no violation of the Open Meetings Act occurred, because the Act did not apply.

B. The May 14 Meeting

The Harford County Council is a “public body.” Therefore, the County Council is subject to the requirement in §10-507(b) that it “adopt and enforce reasonable rules regarding the conduct of persons attending its meetings and the videotaping, televising, photographing, broadcasting or recording of its meetings.” As we previously observed, “although this language stops short of a mandate that videotaping and the other specified activities be allowed, nevertheless it reflects an assumption that no public body would seek to ban these activities at an open meeting. The Compliance Board believes that any attempt by a public body to prohibit videotaping [or similar activities] at an open meeting would be unlawful.” Compliance Board Opinion No. 95-9, at 4 (November 21, 1995).

On the facts as we understand them, the County Council did not attempt to prohibit the camera crew’s presence at its meeting. To the contrary, once the Council learned that the camera crew was detained by a security guard pending approval for their admittance, the Council promptly gave that approval. Although the better practice would be for security personnel to be told in advance that camera crews are to be admitted to Council meetings,

nevertheless a reasonable delay occasioned by good-faith enforcement of general security procedures for the courthouse does not amount to a violation of the Open Meetings Act.

III

Conclusion

The Compliance Board finds no violation of the Open Meetings Act arising from the prohibition of television cameras at the June 17 zoning hearing or the delay in admitting the camera crew to the May 14 County Council meeting.

OPEN MEETINGS COMPLIANCE BOARD

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